

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL SMITH,

Defendant.

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CASE NO. 1:20-cr-00707-7

ORDER

[Resolving Doc. 378]

JAMES S. GWIN, UNITED STATES DISTRICT COURT JUDGE:

Defendant Michael Smith moves for a sentence reduction under 18 U.S.C. § 3582(c)(2) and U.S. Sentencing Guidelines Amendment 821.<sup>1</sup>

Amendment 821 changes the assignment of “status points” for criminal history calculations. For defendants with seven or more criminal history points, Amendment 821 reduces those defendants’ status points to one point.<sup>2</sup> For defendants with six or fewer criminal history points, Amendment 821 reduces those defendants’ status points to zero.<sup>3</sup>

Although Amendment 821 applies retroactively, a district court may not modify a defendant’s sentence based on a retroactive amendment unless the defendant is eligible under U.S. Sentencing Guidelines § 1B1.10.<sup>4</sup> And under § 1B1.10(a)(2)(B), a defendant is not eligible if applying the retroactive amendment does not lower the defendant’s guideline range.<sup>5</sup>

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<sup>1</sup> Doc. 378.

<sup>2</sup> Amendment 821, <https://www.ussc.gov/guidelines/amendment/821>.

<sup>3</sup> *Id.*

<sup>4</sup> *Dillon v. United States*, 560 U.S. 817, 827 (2010).

<sup>5</sup> U.S.S.G. § 1B1.10(a)(2)(B).

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In this case, the Court sentenced Defendant Smith using the guideline calculation for Criminal History Category III, because Smith had six total points.<sup>6</sup> Applying Amendment 821, Smith's criminal history points are reduced to four. But that does not change Smith's Criminal History Category<sup>7</sup> and therefore does not change Smith's guideline range.

For this reason, Defendant Smith is not eligible for a sentence reduction under Amendment 821 and § 3582(c)(2). The Court **DENIES** the sentence reduction motion.

IT IS SO ORDERED.

Dated: February 7, 2024

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>6</sup> Doc. 273 at PageID #: 1705; Doc. 247 at PageID #: 1444.

<sup>7</sup> See [U.S.S.G. Ch. 5, Pt. A](#) (Sentencing Table).